

Clerk of the Court, Class Action

U.S. District Court for the

Northern District of California

United States Courthouse

1301 Clay Street

Oakland California 94612

FILED
SEP -9 2019
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

**In re Lithium Ion Batteries Antitrust Litigation – All Indirect
Purchaser Actions, MDL 4:13-md-02420-YGR,**

Samsung SDI Co., Ltd. and Samsung SDI America, Inc. (“SDI”); TOKIN Corporation (“TOKIN”); Toshiba Corporation (“Toshiba”); and Panasonic Corporation, Panasonic Corporation of North America, SANYO Electric Co., Ltd., and SANYO North America Corporation (“Panasonic”) (the Third Round Of Settlements)

Judge Yvonne Gonzalez Rogers

Christopher Andrews, Pro se

Objector, non attorney

Motion to Proceed In Forma

Pauperis

MOTION TO PROCEED IN FORMA PAUPERIS

The Objector Has a Right to Appeal the Court's Decision and Proceed In Form Pauperis Upon Showing of Good Cause as Will Be Shown

Appeals are a matter of right. *In re American President Lines, Inc.*, 779 F.2d 714, 718 (D.C. Cir. 1985) (citing *Coppedge v. United States*, 369 U.S. 438, 441-442 (1962)). “Courts accordingly must be wary of orders, even those well-meaning, that might impermissibly encumber that right.” *Id.* (citing *North Carolina v. Pearce*, 395 U.S. 711, 724 (1969) (“[a] court is without right to . . . put a price on an appeal. A party’s exercise of a right of appeal must be free and unfettered” (internal quotation and citation omitted))). *See Clark v. Universal Builders, Inc.*, 501 F.2d 324, 341 (7th Cir. 1974) (“any attempt by a court at preventing an appeal is unwarranted and cannot be tolerated”). *See also Azizian v. Federated Dep’t Stores, Inc.*, 499 F.3d 950, 961 (9th Cir. 2007) (“[A]ny attempt by a court at preventing an appeal is unwarranted and cannot be tolerated.” (quoting *Adsani v. Miller*, 139 F.3d 67, 79 (2d Cir. 1998), *cert denied*, 525 U.S. 875 (1998))).

The merits of an appeal are decided by the appellate court and cannot be shortcircuited by a district court that disapproves of the appeal. *In re American Presidential Lines*, 779 F.2d 714, 717 (D.C. Cir. 1985) *Vaughn v. American Honda Motor Co., Inc.*, 507 F.3d 295, 299 (5th Cir. 2007); *Cooter & Gell*, 496 U.S. 384, 407 (1990).¹ Thus, “A district judge ought not try to insulate his decisions from

appellate review by preventing a person from acquiring a status essential to that review.” *Robert F. Booth Trust v. Crowley*, 687 F.3d 314, 318 (7th Cir. 2012).

“[A]ny attempt by a court at preventing an appeal is unwarranted and cannot be tolerated.”) (quoting *Clark v. Universal Builders, Inc.*, 501 F.2d 324, 341 (7th Cir. 1974)). *Azizian*, 499 F.3d at 961;

As the Ninth Circuit explained, a district court does not get to prejudge the appeal and “deter” appeals it does not like through excessive appeal bonds. *Azizian*, 499 F.3d at 961; *Vaughn*, 507 F.3d at 299; *Am. President Lines*, 779 F.2d 714; *but see Adsani*, 139 F.3d at 79. If a judge improperly chills appeals of its decisions, it could forever avoid review of its rulings. *Cf. Robert F. Booth Trust v. Crowley*, 687 F.3d 314, 318 (7th Cir. 2012) (“A district judge ought not try to insulate his decisions from appellate review....”).

The appellant requests this court approve this motion to proceed in forma based on the attached in force orders granting in forma pauperis status. Those orders were approved by the 9th Circuit Case 17-17369 as it relates to this current case 13-md-02420-YGR, Exhibit 1, which has not been revoked and two copies of another existing in force, in forma pauperis order approval by the 9th Circuit, Case 17-16459, Exhibit 2, both of which should waive the filing fee to his motion to proceed in forma pauperis along with a copy of the notice of appeal. Form 4.

The appeal is not a frivolous appeal in any sense of the word based on the evidence in the record. The 9th Circuit should review the unique issues the objector has pointed out in his Notice Of Appeal.



Christopher Andrews, Pro se Objector, PO Box 530394 Livonia, MI 48153-0394

Telephone 248-635-3810 Email: caaloa@gmail.com ^{14 SEPTEMBER 06, 2019} ~~November 20, 2017~~

Proof of Service

I hereby certify under the penalty of perjury that on this day September 06, 2019

the objector mailed two copies of this Motion to Proceed in Forma Pauperis to the
GA AND A COPY OF THE NOTICE OF APPEAL
US District Court for the Northern District of California via USPS Priority Mail

and served a true and correct copy upon class counsel via first class prepaid mail at the address listed below.

S. Berman
Hagens Berman Sobol
1918 Eighth Ave. Suite 3300
Seattle, WA 98101



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Exhibit 1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 1 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: LITHIUM ION BATTERIES
ANTITRUST LITIGATION.

No. 17-17369

D.C. No. 4:13-md-02420-YGR
Northern District of California,
Oakland

INDIRECT PURCHASER PLAINTIFFS,

ORDER

Plaintiff-Appellee,

v.

CHRISTOPHER ANDREWS,

Objector-Appellant,

v.

PANASONIC CORPORATION; et al.,

Defendants-Appellees.

A review of the district court docket reflects that on April 21, 2017, the district court granted appellant Christopher Andrews leave to proceed in forma pauperis and that such permission has not been revoked. Accordingly, appellant's in forma pauperis status continues in this court. *See* Fed. R. App. P. 24(a)(3). Appellant's motion to proceed in forma pauperis on appeal (Docket Entry No. 2) is therefore unnecessary.

The previously established briefing schedule remains in effect.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Lior A. Brinn
Deputy Clerk
Ninth Circuit Rule 27-7

Exhibit 2

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

AUG 23 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MATTHEW EDWARDS; et al.,

No. 17-16459

Plaintiffs-Appellees,

D.C. Nos. 4:11-cv-04766-JSW

v.

4:11-cv-04791-JSW

4:11-cv-05253-JSW

CHRISTOPHER ANDREWS,

Northern District of California,
Oakland

Objector-Appellant,

ORDER

v.

NATIONAL MILK PRODUCERS
FEDERATION, AKA Cooperatives
Working Together; et al.,

Defendants-Appellees.

Before: FARRIS, BYBEE, and N.R. SMITH, Circuit Judges.

The response to the October 6, 2017 order demonstrates that this appeal involves non-frivolous issues. The order to show cause is therefore discharged, and appellant's motion to proceed in forma pauperis (Docket Entry No. 4) is granted. *See* 28 U.S.C. § 1915(a). The Clerk shall amend the docket to reflect appellant's in forma pauperis status.

The motion for summary affirmance of the district court's judgment (Docket Entry No. 7) is denied because the issues raised in the appeal are sufficiently substantial to warrant further consideration by a merits panel. *See* 9th Cir. R. 3-6;

United States v. Hooton, 693 F.2d 857, 858 (9th Cir. 1982) (stating standard).

The opening brief is due October 1, 2018; the answering brief is due November 1, 2018; and the optional reply brief is due within 21 days after service of the answering brief.

Because appellant is not represented by counsel, appellant does not need to submit excerpts of record for this appeal. *See* 9th Cir. R. 30-1.2. Appellees' ~~supplemental excerpts of record should include only the district court docket~~ report, the notice of appeal, the judgment or order appealed from, and any specific portions of the record cited in the answering brief. *See* 9th Cir. R. 30-1.7.